



Analysis: Violet Blue Vs. Violet Blue

By Mark Kernes

SAN FRANCISCO – Most people who have been in the adult video industry for a couple of years or more are aware of actress Violet Blue: The tiny brunette (formerly blonde) with the lustful attitude who won AVN's Best New Starlet award in 2001, and has since had multiple sex scene nominations until her retirement from performing (well, more or less) in 2005.

But there's another Violet Blue out there: A sex-positive writer living in the Bay area, with nine sexual how-to books to her credit, as well as having been the editor of several volumes of erotic short stories. This Violet Blue started out doing reviews of adult videos for the Good Vibrations catalog in the mid-'90s, and now has a weekly sex column in the San Francisco Chronicle, a podcast called "Open Source Sex," and has had her work published in a variety of magazines. Her website is www.tinynibbles.com – and apparently, this Violet Blue lusts after www.violetblue.org.

To that end, author Blue filed a lawsuit against actress Blue on Oct. 22 of this year, charging trademark infringement, trademark dilution, violation of right of publicity and unfair competition, claiming that actress Blue "created a likelihood of confusion as to sponsorship, connection, or authorization with Plaintiff Blue's valuable mark" by using her name and even adopting elements of author Blue's appearance, which she claims she's been using since 1999.

There's only one problem: Author Blue provides no proof in her lawsuit as to even the approximate date that she claims she became widely known as "Violet Blue," and the earliest date of publication listed in her Wikipedia entry is 2001, when she edited "Sweet Life: Erotic Fantasies for Couples" for Cleis Press. Moreover, she only received the trademark on her name in March of this year.

Contrast that with actress Violet Blue, who performed in More Dirty Debutantes 140 and 141 as well as There's Something About Jack 10, University Coeds 24, Virgin Stories 10, Sweet Treats 2 and Unnatural Sex 1; and essayed anal scenes in Lewd Conduct 8 and Real Sex Magazine 31, all of which were released in 2000, and before that, she made the rounds of the magazines with nude modeling gigs. So it would appear that actress Blue has the first real claim on the name. And while actress Blue believes that "Violet Blue" may be the author's given name at birth, another acquaintance of the author recalls that the author changed her name to "Violet Blue" sometime during her tenure at Good Vibrations.

Moreover, Wikipedia notes that, "This page is currently protected from editing until disputes have been resolved," suggesting that someone may have tried to change what's there in order to influence the pending lawsuit – although the site notes, "Protection is not an endorsement of the current version."

Other aspects of the lawsuit seem incredibly petty. For instance, paragraph 16 of the complaint reads, "A true and correct copy of a photograph of plaintiff Blue, depicting her longstanding public look including short 'betty' bangs, long, dark/black hair color, is attached hereto as Exhibit C." Actress Blue, on the other hand, claims that the "betty bangs" are a more recent look for the author, while actress Blue had them when she started her porn career.

What is certainly surprising are some of the damages author Blue claims to have suffered at the hands (or at least machinations) of actress Blue:

"On or about October 27, 2006, Plaintiff Blue received several communications from established journalists (including Justin Juul, writing for the San Francisco Bay Guardian) and acquaintances (including Fleshbot.com co-contributor Gram Ponante) expressing their surprise to learn that Plaintiff Blue was appearing at the 'Exotic Erotic Ball' to be held the weekend of October 28, 2006, in South San Francisco, California," reads paragraph 27 of the complaint. "Plaintiff Blue had no appearances scheduled for the Exotic Erotic Ball, but learned that Defendant [...] was scheduled to appear in her "Violet Blue" persona. Defendant['s] appearance was advertised and promoted as an appearance by 'Violet Blue'. The individuals who contacted Plaintiff Blue about the appearance were confused by advertisements for Defendant['s] planned appearance at the Exotic Erotic Ball."

It's unclear what author Blue's idea of her own persona is, but considering her chosen field of interest – sex – it seems strange that she would actually become upset at having been linked to the Exotic Erotic Ball, even if she weren't planning to attend personally. The author was also upset that a radio talk show host had mocked Forbes magazine's honoring of the author as a "Web Celeb," with the host later claiming that he had confused the author with the porn star. And then there's the fact that adult performer Dave Pounder emailed her and reminisced about their (alleged) sex scene together ...

But as humorous as the dispute may appear to outsiders, author Blue, at least, is deadly serious, and is seeking, through her attorney, "An award of monetary damages, including recovery of Defendants' profits and the damages sustained by Plaintiff, arising from the acts of Defendants complained of herein, according to proof"; "trebled monetary damages, according to proof"; "prejudgment interest from the date of each wrongful act"; "injunctive relief against Defendants,"; and, of course, "an award of Plaintiff's attorney's fees and costs" and "any and all further relief as may be deemed fit and proper."

Actress Blue, on the other hand, is currently living in Washington state with her husband and two children, spends most of her time taking care of her elderly parents, makes a few bucks cutting hair locally, but the bulk of her income – just a few hundred dollars per month – is derived from her website, www.violetblue.org.

"I've tried to contact lawyers both here and in San Francisco, and LA but I haven't been able to find one that will help me prepare the paperwork to answer the claim or one who would be willing to represent me in court," actress Blue writes. "Everyone keeps telling me this is going to cost me a lot of money, that I don't have. I'm just worried I'm going to get taken for all the money that I'll make in the next ten years cutting hair if I don't win this case!"

Actress Nina Hartley, who faced a similar situation when she was sued by manufacturer Nina Footwear for her domain name nina.com, but who fortunately had the resources to fight that suit, eventually won her battle, but it took several months for a settlement to be reached.

"I retained counsel and he fought successfully for my right to retain the use of my name, and I would recommend anyone in the same situation to do the same," Hartley told AVN.

But sadly, actress Blue doesn't have those resources, and although her case for retaining her domain name seems stronger than that of the author, without assistance of counsel, she may very well lose her rights to it.

So consider this a plea for any attorney familiar with copyright/trademark and domain name disputes, who is willing to offer his/her services for a very modest fee or even pro bono, to contact this author at AVN by calling (818) 718-5788 and he/she will be put in touch with the actress.

After all, how many chances do you get to do a favor for a popular retired porn star?

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